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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,539	03/19/2002	Veikko Kankaanpaa	540-016.2	6927

4955 7590 03/16/2006

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EXAMINER

FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/088,539	Applicant(s) KANKAANPAA, VEIKKO	
	Examiner José A. Fortuna	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7 and 16-20 are rejected under 35 USC §103(a). This rejection is set forth in the prior Office action mailed on September 02, 2005.

Response to Arguments

3. Applicant's arguments filed on December 5, 2005 have been fully considered but they are not persuasive.

With regard to the potential new matter on the addition of figure 4 and changing "density" to --consistency--, the examiner agrees with applicants and the rejection/objection has been withdrawn.

With regard to the rejection under 35 U.S.C. §103(a), applicants argue that the cited references do not teach the running wheel as claimed nor there is no motivation to change the cylindrical shape of the references to be conical as claimed. The arguments are not convincing for the following reasons:

- Even though applicants have argued that the cited reference, Schneid et al., does not show the running wheel that as a pump, they have not

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explained how the wheel shown by the reference in figure 4 for example is different than that claimed, i.e., figure 4 seems to show the same type of pumping system as claimed. See that the it function as a pump, pumping the pulp in the direction of the arrows, see figure 4, and teach the rotation of the shaft, a wheel,¹ note the definition of wheel below.

¹

wheel  **P Pronunciation Key** (hwēl, wēl)

n.

1. A solid disk or a rigid circular ring connected by spokes to a hub, designed to turn around an axle passed through the center.
2. Something resembling such a disk or ring in appearance or movement or having a wheel as its principal part or characteristic, as:
 - a. The steering device on a vehicle.
 - b. A potter's wheel.
 - c. A water wheel.
 - d. A spinning wheel.
 - e. Games. A device used in roulette and other games of chance.
 - f. A firework that rotates while burning.
 - g. Informal. A bicycle.
 - h. An instrument to which a victim was bound for torture during the Middle Ages.
3. **wheels** Forces that provide energy, movement, or direction: *the wheels of commerce*.
4. The act or process of turning; revolution or rotation.
5. A military maneuver executed in order to change the direction of movement of a formation, as of troops or ships, in which the formation is maintained while the outer unit describes an arc and the inner or center unit remains stationary as a pivot.
6. **wheels** Slang. A motor vehicle or access thereto: *Do you have wheels tonight?*
7. Slang. A person with a great deal of power or influence: *a wheel in state government*.

v. **wheeled, wheel·ing, wheels**

v. tr.

1. To roll, move, or transport on wheels or a wheel.
2. To cause to turn around or as if around a central axis; revolve or rotate.
3. To provide with wheels or a wheel.

v. intr.

1. To turn around or as if around a central axis; revolve or rotate.
2. To roll or move on or as if on wheels or a wheel.
3. To fly in a curving or circular course: *A flock of gulls wheeled just above the dock.*

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wheel

In addition to the idioms beginning with wheel, also see asleep at the switch (wheel); at the wheel; big cheese (wheel); cog in the wheel; fifth wheel; grease (oil) the wheels; hell on wheels; put one's shoulder to the wheel; reinvent the wheel; set (wheels) in motion; spin one's wheels; squeaky wheel gets the grease.

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wheel

n 1: a simple machine consisting of a circular frame with spokes (or a solid disc) that can rotate on a shaft or axle (as in vehicles or other machines) 2: a handwheel that is used for steering [syn: steering wheel] 3: a circular helm to control the rudder of a vessel 4: game equipment consisting of a rotating wheel with slots that is used for gambling; players bet on which slot the roulette ball will stop in [syn: roulette wheel] 5: an instrument of torture that stretches or disjoints or mutilates victims [syn: rack] 6: a wheeled vehicle that has two wheels and is moved by foot pedals [syn: bicycle, bike, cycle] v 1: change directions as if revolving on a pivot; "They wheeled their horses around and left" [syn: wheel around] 2: wheel somebody or something [syn: wheel around] 3: move along on or as if on wheels or a wheeled vehicle; "The President's convoy rolled past the crowds" [syn: roll] 4: ride a bicycle [syn: bicycle, cycle, bike, pedal]

- As to the arguments that there is not motivation to change the shape of the disperser to cylindrical to conical, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the use of conical disperser is very well known in the art and using a conical disperser instead of a cylindrical one would have been obvious to one of ordinary skill in the art. Note that figure 4 seems to show a frustoconical device. Note also that it has been held that “[C]hanges of size, shape, without functional significance are not patentable.” *Research Corp. V. Nasco Industries, Inc.*, 501 F.2d 358: 182 USPQ 449 (CA 7) cert. Denied 184 USPQ 193; 43 USLW 3359 (1974).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


José A Fortuna
Primary Examiner
Art Unit 1731

JAF